



## Master Services Agreement

This Master Services Agreement (this “**MSA**”) by and between qcue, inc., a Texas corporation with an address at 1919 South First Street, Building A, Austin, TX 78704 (“**Qcue**”), and Arizona Board of Regents on behalf of The University of Arizona Athletics Department with a principal place of business located at McKale Center, 1 National Championship Drive, PO Box 210096, Tucson, AZ 85721 (the “**Customer**”), is made effective as of the date indicated below Qcue on this MSA (the “**Effective Date**”), provided that, each Order Form submitted by the Customer and accepted by Qcue shall become effective as of the date of Qcue’s signature on the Order Form, or upon the initial delivery of the ordered product and/or service by Qcue, whichever is earlier. Customer and Qcue agree that all rights and obligations of the parties are as set forth in this MSA and the attached Order Form(s) and any other exhibit referenced and incorporated herein or therein (all as amended and in effect from time to time, all collectively, the “**Agreement**”)

The following terms and conditions (the “**Customer Terms**”) govern Customer’s access and use of the Services (defined below).

### 1. Provision of Services.

1.1 “**Services**” means Licensing Services and Professional Services. “**Licensing Services**” means the online, Web-based application services that are ordered by Customer and made available by Qcue in a software-as-a-service model pursuant to one or more Order Forms under which Customer ordered the applicable Licensing Services. “**Professional Services**” means such consulting and development services, if any, that are ordered by Customer and provided by Qcue, as more particularly described in the Order Form under which Customer ordered the applicable Professional Services. “**Order Form**” means the paper or electronic Order Form (including any exhibits, schedules, supplements, or addenda thereto) under which Customer ordered the applicable Services.

1.2 Following Qcue’s contractual acceptance of an Order Form submitted by Customer, Qcue will make the applicable Services available to Customer during the applicable term as set forth in such Order Form, in which case any additional terms and conditions contained in such Order Form are hereby incorporated into the Agreement by reference and are legally binding with respect to such Services. The Services will be provided in accordance with the provisions of these Customer Terms, as the same may be modified or amended by the Order Form(s) under which such Services are being provided. In the case of a conflict between a provision in an Order Form and a provision in these Customer Terms, such conflicting provision of the Order Form shall prevail, but only with regard to that particular Order Form.

### 2. Fees; Payment.

2.1 Fees for Services are due and payable by Customer as specified in the applicable Order Form. Except as otherwise specified in the applicable Order Form, all

payment obligations are non-cancelable. Except as otherwise specified in the applicable Order Form, Customer shall reimburse Qcue for all reasonable travel documented expenses and out of pocket documented expenses incurred in connection with the Professional Services. Any sum due Qcue under the Agreement for which a time for payment is not otherwise specified in the applicable Order Form will be due and payable within thirty days after the due date of an invoice therefor from Qcue. If Customer wishes to dispute any charges, Customer must notify Qcue in writing of the good faith reasons for such dispute within 30 days of receipt of the applicable statement or invoice and timely pay all undisputed charges. Except for amounts disputed in good faith in accordance with this Section 2.1, amounts not paid by Customer by the due date will bear interest from such due date at the lesser of 1.5% per month or the maximum rate permitted by applicable law. Without limiting any of Qcue’s other rights and remedies, failure of Customer to fully pay any invoiced amount within sixty days after the date of the invoice will be deemed a material breach of the Agreement, justifying suspension of the Services, and will be sufficient cause for immediate termination of the Agreement by Qcue.

2.2 Unless specified in the applicable Order Form, fees do not include any taxes, duties, levies or charges of any kind assessable by any governmental authority (including but not limited to any VAT, GST and sales, use or withholding taxes, but excluding taxes based solely on Qcue’s income, property and employees). If Qcue is legally required to pay or collect any taxes for which Customer is responsible hereunder, Qcue may bill and collect such amounts from Customer in addition to the amounts otherwise payable hereunder.

### 3. Proprietary Rights

3.1 During the term of the applicable Order Form, Qcue grants Customer a limited and non-exclusive right and

license to access and use the Services pursuant to this Agreement only for Customer's own ticketing and sales operations. Except for the limited rights expressly granted to Customer hereunder, Qcue reserves all right, title and interest in and to the Services, including all related intellectual property rights, and no rights are granted to Customer, whether by estoppel, implication or otherwise.

3.2 In order to facilitate provision of the Services, Customer will be required to provide data specific to its ticketing and sales operations (collectively, "Customer Data"). Customer grants Qcue a limited and non-exclusive right and license to access, store, transmit, analyze and use the Customer Data for the limited purposes of (a) providing the Services to Customer during the term of the applicable Order Form and (b) for the Other Data Rights as set forth in Section 3.5 below. Customer shall remain the sole and exclusive owner of Customer Data as between the parties, regardless of where such data is maintained. Customer shall have the sole responsibility for the quality, accuracy, appropriateness, legality, integrity, reliability, and intellectual property ownership of all Customer Data. Qcue will not be responsible for any destruction, loss, deletion, or damage to Customer Data that is proximately caused by the negligence or misconduct of Customer rather than a defect or error in the Services or a breach of this Agreement by Qcue.

3.3 Customer shall not (i) copy or frame any part or content of the Services other than as reasonably necessary for Customer's own internal use of the Services in accordance with the Agreement, (ii) permit any third party to access the Services except as permitted herein and in the applicable Order Form, or (iii) create any improvements or derivative works based on the Services. Without limiting the generality of the foregoing, Customer shall not access or use the Services for purposes of copying any features, functions or content of the Services, or benchmarking or monitoring availability, performance or functionality of the Services, or any other competitive purpose. Customer shall not reverse engineer the Services unless expressly permitted by applicable law without the possibility of contractual waiver.

3.4 User feedback is essential to the continued improvement of Qcue's products and services. For purposes of this Agreement, the term "Feedback" shall mean all feedback, suggestions, recommendations, or other information, ideas or materials regarding features, functionality, content or usage of the Services as well as any improvements, modifications, derivatives, adaptations, specifications, inventions, designs, updates or enhancements made or otherwise provided by Customer with respect to the Services. Customer hereby assigns to Qcue all right, title and interest in and to all Feedback, whether made or otherwise provided by Customer during or after the term of this Agreement. Customer shall promptly transmit all Feedback to Qcue.

3.5 Customer acknowledges that all users of the Qcue service (including Customer) shall have the ability to review aggregated data derived from other users of the Qcue services. Accordingly, pursuant to Section 3.2 above, Customer grants Qcue the right to display certain Customer Data to other users of the Qcue service. Customer may request in writing at any point for data to only be displayed in an aggregated manner (without identifying Customer as the source for such data) and by doing so will waive rights to see data from other users in a non-anonymous manner. Customer also grants Qcue the right to display aggregated derivative works based upon Customer Data to non-Qcue users. In the event that this Agreement terminates, Qcue shall continue to have the right to display anonymized and derivative works based upon Customer Data so long as such Customer Data is anonymous. Collectively, the rights described in this Section shall be referred to in this Agreement as the "Other Data Rights".

#### 4. Confidentiality.

4.1 "Confidential Information" means all confidential information being disclosed by one party to the other party (including but not limited to marketing plans, business strategies, customer information, technical information, product plans and designs) that is designated as confidential.

4.2 The receiving party will: (i) hold the disclosing party's Confidential Information in confidence using the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care); (ii) restrict disclosure of the disclosing party's Confidential Information to those of its employees, agents or representatives with a need to know such information and who are bound by obligations respecting the protection of confidential information which are substantially similar to those of this Agreement and which would extend to the disclosing party's Confidential Information; and (iii) not use the disclosing party's Confidential Information for any purpose outside the scope of this Agreement.

4.3 The restrictions in this Section 4 will not apply to Confidential Information to the extent it (i) was in the public domain at the time of disclosure; (ii) became publicly available after disclosure to the receiving party without breach of this Agreement; (iii) was lawfully received by the receiving party from a third party without such restrictions; (iv) was known to the receiving party, its employees, agents or representatives without such restrictions prior to its receipt from the disclosing party; (v) was independently developed by the receiving party without breach of this Agreement; or (vi) is disclosed pursuant to the Other Data Rights under Section 3.3 and as further described in Section 3.5. The receiving party may disclose Confidential Information to the extent required pursuant to judicial order or other compulsion of law; provided that the receiving party shall provide

prompt notice of such requirement to the disclosing party (to the extent legally permitted) and shall comply, at the disclosing party's expense, with any protective order imposed on such disclosure; provided further that the disclosing party shall reimburse the receiving party for the reasonable cost of compiling and providing secure access to such Confidential Information if such disclosure is required as part of a legal proceeding that involves the disclosing party.

4.4 Customer acknowledges and agrees that employees, agents and representatives of Qcue who have received or have been exposed to Customer's Confidential Information may further develop their knowledge, skills and experience (including, but not limited to, ideas, concepts, know-how and techniques), which may be based on such Confidential Information. The restrictions in this Section 4 will not apply to the subsequent use, and disclosures incidental to such use, by such employees and agents of such knowledge, skills and experience, as unintentionally retained in their unaided memories. The receipt of or exposure to Customer's Confidential Information under this Agreement will not in any way limit or restrict the work assignments of any of Qcue's employees, agents or representatives.

#### 5. Indemnification.

5.1 Qcue shall defend Customer against any claim, demand, suit, or proceeding made or brought against Customer by a third party to the extent such claim, demand, suit, or proceeding alleges that Customer's use of the Services as permitted hereunder infringes any copyright, trademark or trade secret rights of a third party, and shall indemnify Customer for any damages, attorney fees and costs finally awarded against Customer as a result of such infringement; provided that Customer give Qcue prompt written notice, reasonable assistance (at Qcue's expense) and sole control of the defense and settlement thereof (provided that any settlement unconditionally releases Customer of all liability).

5.2 Customer shall be responsible for any claim, demand, suit, or proceeding made or brought against to the extent such claim, demand, suit, or proceeding alleges that any of Customer's business processes or data, or Customer's use of the Services other than as permitted hereunder infringes any intellectual property rights of a third party, and shall be responsible for any documented damages, court-awarded attorney fees and documented costs as a result of such infringement caused by Customer's acts or negligence; provided that Qcue gives Customer prompt written notice of such claim, demand, suit or proceeding

5.3 If Qcue reasonably believe the Services may infringe the intellectual property rights of a third party, Qcue may, in Qcue's discretion and at no cost to Customer, either: (i) modify the Services so that they no longer infringe, (ii) obtain a license for Customer's continued use of the Services in accordance with this Agreement,

or (iii) terminate this Agreement upon 30 days' written notice and refund to Customer any prepaid fees covering the remainder of the subscription period after the effective date of termination.

5.4 THIS SECTION 5 STATES THE PARTY'S LIABILITY TO, AND THE PARTY'S EXCLUSIVE REMEDY AGAINST, THE OTHER PARTY FOR ANY TYPE OF THIRD-PARTY INTELLECTUAL PROPERTY INFRINGEMENT CLAIM.

#### 6. Disclaimers; Limitation of Liability.

6.1 EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

6.2 EXCEPT FOR A PARTY'S RESPONSIBILITY AND DEFENSE OBLIGATIONS UNDER SECTION 5 AND/OR SECTION 8.1 (WHICH SHALL BE CAPPED AT NO MORE THAN \$250,000, RESPECTIVELY), IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY) EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER HEREUNDER. THE FOREGOING SHALL NOT LIMIT CUSTOMER'S PAYMENT OBLIGATIONS UNDER SECTION 2.

6.3 IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

6.4 THE FOREGOING DISCLAIMERS AND LIMITATIONS OF LIABILITY SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

#### 7. Termination.

This Agreement may be terminated by either party for cause upon 30 days written notice if the other party is in breach of any material provision of this Agreement if such breach remains uncured at the end of such 30 day period. Sections 3, 5-8 survive any such termination or expiration.

## 8. General.

8.1 If you are accepting the Customer Terms on behalf of a company or other legal entity, you represent that you have the authority to bind such entity and its affiliates to the Agreement, in which case the terms “you” and “your” will refer to such entity and its affiliates. If you do not have such authority, you may not accept the Customer Terms and you may not access or use the Services. You represent that entry into and performance under these Customer Terms and any subsequent Order Form will not violate or conflict with any other agreement to which Customer is bound. Customer acknowledges that Qcue would not otherwise enter into this Agreement or agree to perform its duties hereunder, and Customer agrees to be responsible for any breach or inaccuracy by Customer of such representation and warranty.

8.2 The Services comprise commercial computer software developed at private expense and are subject to limited utilization as expressly stated in this Agreement. If a government agency has a need for rights not conveyed under these terms, it must negotiate with Qcue to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in any applicable contract or agreement.

8.3 The Services may contain encryption or other technology, the provision of which is restricted by U.S. export control laws and regulations. To the best of its knowledge, Customer represents that it is not named on any U.S. government denied-party list and that Customer will use the Services in conformance with U.S. export control laws and regulations and will not provide or re-export the Services to the governments of Cuba, Iran, North Korea, Sudan or Syria or to any other destination to which the U.S. government may in the future prohibit exports or to citizens, nationals or permanent residents of those countries.

8.4 The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. Nothing in this Agreement creates an exclusive relationship or in any way prevents Qcue from entering into similar arrangements with or providing similar services to other entities, including, without limitation, other similar customers. Customer understands and acknowledges that Qcue may, in Qcue’s sole discretion, use some or all of the generalizable insights, information, or results of any of the products or services provided hereunder in providing products or services to other customers and nothing in this Agreement shall be construed to limit Qcue’s right to do so.

8.5 Each party hereby waives any right to jury trial in connection with any action arising out of or relating to this Agreement.

8.6 These Customer Terms, together with all mutually agreed Order Forms and any exhibits, schedules, supplements, or addenda thereto, constitutes the final, complete and exclusive agreement among the parties regarding acquisition and use of the Services and supersedes all prior or contemporaneous agreements or understandings, whether in written, oral, electronic, or other form, relating to the subject matter hereof, including any prior versions of the Customer Terms.

8.7 No modification or waiver of any provision of this Agreement is effective unless it is contained in a written document that has been either signed or accepted electronically by the party against whom such modification or waiver is asserted. Except for the terms and conditions of Order Forms provided by Qcue, the terms and conditions contained in any purchase order or other order documentation submitted by Customer will be null and void and will not be incorporated into this Agreement. No failure or delay by either party in exercising any right under this Agreement constitutes a waiver of that right. The waiver of any breach or provision of this Agreement will not be deemed a waiver of any different or subsequent breach.

8.8 The provisions of this Agreement are severable. In the event that any provision or portion thereof is found by any court to be invalid or otherwise unenforceable, the remainder of this Agreement will not be affected, and the parties consent to such court’s substitution of a valid and enforceable term that approximates the intent and effect of such invalid or unenforceable provision or portion.

8.9 No party will bear any responsibility or liability under this Agreement as a result of any “Force Majeure” including, but not limited to, act of God, war, riot, flood, civil commotion, insurrection, severe or adverse weather conditions, failure of any utilities, telecommunications or cloud computing provider, or any other cause beyond the reasonable control of such party; provided that: (i) the party affected by a Force Majeure gives the other party prompt notice of such Force Majeure and uses reasonable efforts to overcome such Force Majeure; and (ii) if a Force Majeure affects a party’s performance under this Agreement for more than 30 days, the other party may terminate this Agreement

8.10 Except as otherwise provided herein, any notice or other communication to be given hereunder must be in writing and either (as elected by the party giving such notice): (i) personally delivered; (ii) sent postage prepaid by registered or certified mail, return receipt requested; (iii) transmitted by facsimile (with a confirmation of receipt) or email; or (iv) deposited prepaid with a nationally recognized overnight courier service. Notices will be deemed to have been duly given on the date of receipt (or if non-electronic delivery is refused, the date of such refusal).

8.11 Neither party may assign any of its rights or obligations hereunder, whether by operation of law or

otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety, without consent of the other party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party. A party's sole remedy for any purported assignment by the other party in breach of this paragraph will be, at the non-assigning party's election, termination of this Agreement for cause upon written notice to the assigning party. Subject to the foregoing, this

Agreement is binding upon and inures to the benefit of the parties, their respective successors and permitted assigns.

8.13 During the term of the Agreement, and for a period of one year following the termination of the Agreement, Customer shall refrain from soliciting any employees of Qcue unless Customer obtains the prior written consent of Qcue.

**[Signature Page Follows]**

IN WITNESS WHEREOF, each of the parties, intending to be legally bound by the Agreement, has caused this MSA to be signed by its duly authorized representative as of the Effective Date.

**Customer**

By: Ernette Garcia  
Name: Ernette Garcia  
Title: Contracting Manager  
Date: June 18, 2019

**qcue, inc.**

By: Barry S Kahn  
Name: Barry S Kahn  
Title: CEO  
Date: 6/18/19

**Customer Address for Notifications**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

**Qcue Address for Notifications**

Qcue  
Attn: Barry Kahn, CEO  
1919 South 1<sup>st</sup> Street, Building A  
Austin, TX 78704  
512.853.9462  
notifications@qcue.com

**Customer Billing Contact**

Contact Name:

\_\_\_\_\_

By:

\_\_\_\_\_  
\_\_\_\_\_  
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Title:

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By:

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Address:

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Name:

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City/State/Zip:

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Title:

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The Attached Addendum is hereby incorporated into this Agreement.

Email:

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Date:

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Phone:

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Date:

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## ADDENDUM

The following terms are added to and form a part of the attached Order Form:

1. **CONFIDENTIAL INFORMATION DISCLOSURE** Customer shall not actively disclose confidential information pursuant to the confidentiality obligation in this Agreement. However, Customer cannot guarantee that such non-disclosure of information shall extend beyond five (5) years following termination of this Agreement. Further, All Customer agreements are subject to applicable Public Records laws including Arizona Revised Statute § 39-121 et seq.
2. **CONFLICT OF INTEREST** The Customer may, within three years after its execution, cancel this Contract without penalty or further obligation if any person significantly involved in negotiating, drafting, securing or obtaining this Contract for or on behalf of the Customer becomes an employee in any capacity of any other party or a consultant to any other party with reference to the subject matter of this Contract while the Contract or any extension hereof is in effect.
3. **CONTRACTING PARTY** The Contracting Party for the Customer is the Arizona Board of Regents for and on behalf of the Customer of Arizona. The Customer is governed by the laws of the State of Arizona and therefore cannot agree to be governed by another State's law.
4. **INDEMNIFICATION AND HOLD-HARMLESS CLAUSES** Arizona Revised Statute § 35-154 prohibits persons from incurring obligations against the state for which funds have not been appropriated or allocated. Arizona Attorney General's Opinion 67-36-L interprets this statute to prohibit the state and its agencies from agreeing to hold harmless or indemnify third parties. The Customer shall be liable for claims, damages or suits arising from the acts, omissions or negligence of its officers, agents and employees.
5. **INFORMATION SECURITY** All systems containing Customer Data must be designed, managed, and operated in accordance with information security best practices and in compliance with all applicable federal and state laws, regulations and policies. To diminish information security threats, QCUE, INC. will (either directly or through its third party service providers) meet the following requirements:
  - a) **Access Control.** Control access to the Customer's resources, including sensitive Customer Data, limiting access to legitimate business need based on an individual's job-related assignment. QCUE, INC. will, or will cause the system administrator to, approve and track access to ensure proper usage and accountability, and QCUE, INC. will make such information available to the Customer for review, upon the Customer's request.
  - b) **Incident Reporting.** Report information security incidents immediately to the Customer (including those that involve information disclosure incidents, unauthorized disclosure of Customer Data, network intrusions, successful virus attacks, unauthorized access or modifications, and threats and vulnerabilities).
  - c) **Off Shore.** Direct services under this Agreement will be performed within the borders of the United States. Any services that are described in this Agreement that directly serve the Customer and may involve access to secure or sensitive Customer Data or personal client data or development or modification of software for the Customer will be performed within the borders of the United States. Unless stated otherwise in this Agreement, this requirement does not apply to indirect or "overhead" services, redundant back-up services or services that are incidental to the performance of this Agreement. This provision applies to work performed by subcontractors at all tiers and to all Customer Data.
  - d) **Patch Management.** Carry out updates and patch management for all systems and devices in a timely manner and to the satisfaction of the Customer. Updates and patch management must be deployed using an auditable process that can be reviewed by the Customer upon the Customer's request.



- e) Encryption. All systems and devices that store, process or transmit sensitive Customer Data must use an industry standard encryption protocol for data in transit.
  - f) Notifications. Notify the Customer immediately if QCUE, INC. receives any kind of subpoena for or involving Customer Data, if any third-party requests Customer Data, or if QCUE, INC. has a change in the location or transmission of Customer Data. All notifications to the Customer required in this Information Security paragraph will be sent to UA Information Security at infosec@email.arizona.edu, in addition to any other notice addresses in this Agreement.
  - g) Security Reviews. Complete SOC2 Type II or substantially equivalent reviews (such as OpenVAS or Amazon Inspector) in accordance with industry standards, which reviews are subject to review by the Customer upon the Customer's request. Currently, no more than two reviews per year are required.
  - h) Scanning and Penetration Tests. Perform periodic scans, including penetration tests, for unauthorized applications, services, code and system vulnerabilities on the networks and systems included in this Agreement at regular intervals in accordance with industry standards and best practices. QCUE, INC. must correct weaknesses within a reasonable period of time, and QCUE, INC. must provide proof of testing to the Customer upon the Customer's request.
  - i) Customer Rights. The Customer reserves the right (either directly or through third party service providers) to scan and/or penetration test any purchased and/or leased software regardless of where it resides.
  - j) Secure Development. Use secure development and coding standards including secure change management procedures in accordance with industry standards. Perform penetration testing and/or scanning prior to releasing new software versions. QCUE, INC. will provide internal standards and procedures to the Customer for review upon the Customer's request.
  - k) Data. An explicit acknowledgement that the contract allows the contract partner access to confidential information.
    - A stipulation that the confidential information will be held in strict confidence and accessed only for the explicit business purpose of the contract.
    - A guarantee from the contract partner that it will ensure compliance with the protective conditions outlined in the contract.
    - A guarantee from the contract partner that it will protect the confidential information it accesses according to commercially acceptable standards and no less rigorously than it protects its own customer's confidential information.
    - A provision allowing for the return or destruction of all confidential information received by the contract partner upon completion of the contract
    - A stipulation allowing the entry of injunctive relief without posting bond in order to prevent or remedy breach of the confidentiality obligations of the contract.
    - A stipulation that any violation of the contract's protective conditions amounts to a material breach of contract and entitles the Customer to immediately terminate the contract without penalty.
    - A provision allowing auditing of the contract partners' compliance with the contract safeguard requirements.
    - A provision ensuring that the contract's protective requirements shall survive any termination of the agreement
6. **INSPECTION AND AUDIT** QCUE, INC. agrees to keep all books, accounts, reports, files and other records relating to this Agreement for five (5) years after completion of the Agreement. In addition, QCUE, INC. agrees that such books, accounts, reports, files and other records shall be subject to audit pursuant to A.R.S. § 35-214.

7. **NO BOYCOTT OF ISRAEL** As required by ARS §§ 35-393 to 35-393.01, QCUE, INC. certifies it is not currently engaged in a boycott of Israel and will not engage in a boycott of Israel during the term of this Agreement.<sup>1</sup>
8. **NON-DISCRIMINATION** The parties shall comply with all applicable state and federal statutes and regulations governing Equal Employment Opportunity, Non-Discrimination, and Immigration.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum on the dates designated below.

ARIZONA BOARD OF REGENTS ON BEHALF  
OF THE CUSTOMER OF ARIZONA



Ernette Garcia  
Contracting Manager

Date: June 18, 2019

QCUE, INC.



Authorized Signature

Printed Name: Barry S Kahn

Title: CEO

Date: 6/18/19

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<sup>1</sup> Unless and until the District Court's injunction in *Jordahl v. Brnovich et al.*, Case No. 3:17-cv-08263 (D. Ariz.) is stayed or lifted, the Anti-Israel Boycott Provision (A.R.S. 35-393.01 (A)) is unenforceable and the State will take no action to enforce it. This provision (Participation in Boycott of Israel) is not a mandatory part of the Agreement as long as the injunction remains in place.



## Order Form #1

### IMPORTANT—READ CAREFULLY

Qcue, Inc. is willing to provide the University of Arizona Athletics Department (“Customer”) with the Subscription Services requested in this order form (the “Order Form”) subject to the terms and conditions set forth in the Qcue Master Services Agreement provided by Qcue or specifically executed between the parties (the “MSA”). The MSA together with this Order Form and any other material specifically incorporated by reference herein constitute the entire agreement between the Parties with respect to the Services requested in this Order Form. This Order Form and the MSA are sometimes collectively referred to as the “Agreement.”

**PLEASE READ THE CUSTOMER TERMS CAREFULLY AS THEY CONTAIN IMPORTANT INFORMATION REGARDING CUSTOMER’S LEGAL RIGHTS, REMEDIES AND OBLIGATIONS, INCLUDING VARIOUS LIMITATIONS AND EXCLUSIONS. By signing this Order Form, Customer acknowledges having read the MSA and agrees to be legally bound by the terms contained therein.**

**Fees & Payment:** Customer will be responsible for paying fees for the selected services (☒) as outlined below. Customer may opt-in to unselected services (☐) at any time during the subscription term at the quoted prices. All Professional services require an active basic software license.

	Service <sup>1</sup>	Fee	Payment
<input checked="" type="checkbox"/>	Setup Fee	<del>\$10,000</del>	Waived if the minimum ticket allocation is met. Otherwise, charged at the end of the first contract year
<input checked="" type="checkbox"/>	Advanced Licensing – Qcue Distribution	The “Project Fee” is equal in amount to (i)10% of the proceeds received by Qcue from all third-party sales channels for Customer ticket sold through the Qcue Distribution Platform (“ <b>Collections</b> ”) less (ii) the Volume Discount <sup>2</sup>	Qcue remits the balance due <sup>3</sup> from events <sup>4</sup> to Customer by the 20 <sup>th</sup> day of the following month based on payments received by Qcue from buyers per Option <b>A</b> below.  <u>Payment Options:</u> (A) All payments received in the calendar month (B) All events completed during the calendar month <sup>5</sup>
<input checked="" type="checkbox"/>	Volume Discount	Volume discount is cumulative over the life of the contract and equals:  -1% discount on the Project Fee for sales that occur when Collections are between \$4,000,000-\$8,000,000	Adjustments applied to the Project Fee and are reset at the end of each contract year.

<sup>1</sup> Only checked services are requested on this order form. Should other services be requested, or become necessary, at a later date, those fees will apply at the time of addition. In no case shall any new service be added without notification of Customer.

<sup>2</sup> Seller fees through each sales channel may result in Collections being less than the Gross Sales Price for some tickets. E.g., if the Gross Sales Price is \$103 and the related seller fee through the sales channel is \$3, then Collections would be \$97. In this case, the Project Fee would be (10% of \$100) = \$10 *minus* any volume discount at the time of the sale. The Net Payout to Customer would be \$90. In certain cases, Qcue may provide a discount to an individual exchange. If such a discount is conveyed by the sales channel as a fee, this will be considered as an adjustment to the Gross Sales Price as opposed to a fee.

<sup>3</sup> Balance due is equal to current period Collections to Customer less Payout Adjustments from past periods. Payout Adjustments may result from buyer refunds, cancelled events, ticket delivery failures, fraud, and other mishaps resulting in the cancelation of a sale and/or purchase of replacement inventory.

<sup>4</sup> The balance due from non-guaranteed events (e.g., postseason playoff games) will be remitted only after the event date or such date as the event has become guaranteed.

<sup>5</sup> Payments on individual transactions may be withheld if payment has not been received by sales channel.

		-2% discount on the Project Fee for sales that occur when Collections are greater than \$8,000,000	
<input checked="" type="checkbox"/>	Ticket delivery assistance	Ticket delivery assistance fee is equal to (i) 2% of Collections for the transfer of Delayed Delivery <sup>6</sup> PDFs, mobile transfer, flash seats, physical tickets, or other non-PDF delivery methods plus (ii) any fees assessed by Customer's ticketing system associated with the transfer of tickets	Adjustments applied to the Project Fee

**Gross Sale Price** is the list price on any sales channel, excluding any buyer fees, but inclusive of seller fees.

**Minimum Ticket Allocation** A minimum ticket allocation of 300 tickets per home football game during each contract year is required for this Order. If the minimum ticket allocation has not been met on a season, then Customer's access to the Distribution Platform may be disabled at Qcue's sole discretion and additional fees may apply. All inventory must be shared and priced in a timely fashion, in a good faith effort to sell to be counted toward the Minimum Ticket Allocation.

**Sales, Use and Excise Taxes (including any tax on entertainment or amusement services).** The Customer agrees (i) that Qcue is not taking ownership of any tickets hereunder and is not the presenter of the event being ticketed; and (ii) to pay all applicable sales, use or excise taxes (including any tax on entertainment or amusement services) on the Gross Sales Price (the "Taxes") in addition to providing tickets. Customer acknowledges that Qcue is not a partner, joint venturer or engaging in any other co-owner arrangement with Customer. Customer also represents and warrants to Qcue that Customer's entry into and performance under this Order Form will not violate or conflict with any other agreement to which Customer is bound. Customer further acknowledges that Qcue would not otherwise enter into this Order Form or agree to perform its duties hereunder, and Customer agrees to indemnify Qcue against any breach or inaccuracy by Customer of such representation and warranty.

**Gross Sales Price Collections.** The Customer appoints Qcue as its agent to receive Collections on the Customer's behalf. Qcue (as noted above) is not taking ownership of any tickets hereunder and, furthermore, will not take actions with the tickets without prior approval from Customer including but not limited to attending the event or selling at a cost not agreed to by Customer.

**Other Customer Charges.** Customer agrees to bear (and, if applicable, to reimburse Qcue for) all applicable fees associated with (a) download, transfer, or printing of tickets from Customer's account manager and (b) Payout Adjustments from exchanges related to inability to deliver tickets on time, changes to location after tickets have been sold, and inability for purchaser to enter the venue.<sup>7</sup>

**Term:** This Order Form shall have a term from the execution date to April 30, 2022 and shall be limited to events at Customer's venue unless approved in writing in advance by Qcue.

<sup>6</sup> Delayed Delivery is defined as access to inventory (physical or electronic) being restricted until a set time prior to all events such that Qcue is not provided all inventory in a deliverable form for all events in advance of a season.

<sup>7</sup> Qcue reserves the right to not list inventory until inventory (in the form necessary for delivery to buyer) has been delivered to Qcue by Customer. Any changes to inventory locations by Customer after inventory has been listed may result in Payment Adjustments for which Customer is responsible plus a restocking fee equal to 15% of the greater of the Gross Sales Price or stated face value of the inventory.


**Description of Services:** The Services will consist of the right to access and use selected Web-based application services in a software-as-a-service model and professional services as more particularly described hereto:

### **Distribution Platform**


Service	Description of Activities	Timeframe
<b>Basic Distribution License</b>	Unlimited login/usage to Qcue Distribution application	Ongoing
	Business hours direct support with 24/7 automated platform monitoring	Ongoing
	Data visualization business intelligence tools through the Qcue Distribution product, including map view of listings	Ongoing
	Ability to schedule reports	Ongoing
	Ability to create custom zones	Ongoing
	Confirmation steps on price changes	Ongoing
	Event filtering	
<b>Advanced Distribution License</b>	Upload tickets from a team's Account Manager to third party sales channels <sup>8</sup>	Ongoing – Requires seven (7) business day advance notice
	Sell, price, and manage inventory across third party sales channels	Ongoing
	Ability to share and unshared inventory	Ongoing
	Ability to schedule pricing changes	Ongoing
	Reconciliation of fees across exchanges	Ongoing
	Price recommendations and ability to set pricing strategy	Ongoing
<b>Manual Pricing Services</b>	Qcue personnel to price inventory on behalf of Customer	Ongoing, upon request

**IN WITNESS WHEREOF**, each of the parties, intending to be legally bound by the Agreement, has caused this Order Form to be signed by its duly authorized representative.

**Customer**

By:   
 Name: Ernette Garcia  
 Title: Contracting Manager  
 Date: June 18, 2019

**Qcue, Inc.**

By:   
 Name: Barry S Kahn  
 Title: CEO  
 Date: 6/18/19

<sup>8</sup> Inventory must be provided as PDF's and barcodes prior to listing inventory. Alternative or delayed delivery methods may be accepted only if mutually agreed upon and will incur additional fees.